

EXHIBIT M

Eng-Hatcher

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From: Gerald D. Wells [mailto:gwellls@sbtklaw.com]
Sent: Monday, June 23, 2008 12:27 PM
To: Bloom, Elise M.
Cc: Gildow, Kerri A.; Hurst, Ashley R.; Hughes, Hunter R.; Ed Ciolko; Robert Gray; Robert Biela; Katherine Bornstein; Nick Williams; Michelle A. Coccagna; Jason Conway
Subject: RE: Eng-Hatcher

Elise:

Thank you for your offer to make additional deposition designees available this week. As a preliminary matter, due to the short notice, we are unable to accept your offer to take additional deposition testimony regarding, *inter alia*, the duties of Retail Store Managers, Regional Sales Managers, and District Managers tomorrow afternoon. Would such a designee be available on Friday? If so, Plaintiff would be happy to schedule that deposition. Naturally, since Mr. Galluccio testified that he was unable to speak to matters on a national level, we trust that you will be designating a different individual. Kindly let us know the name and job title of your proposed designee.

With respect to your offer of making a designee available on Thursday to address the issue of complaints of off-the-clock work, there appears to be some confusion over the scope of the deposition. As we set forth in our June 18th conference call (and subsequent correspondence of June 19th), such a designee needs knowledge of the following topic areas: (i) Defendants' procedures for investigating complaints of off-the-clock work, (ii) how such complaints are processed, (iii) what corrective action, if any, the Company has taken as a result of such complaints, and (iv) information concerning actual complaints of off-the-clock work from across the country. However, in your email of June 20th, you appear to limit such testimony to the "complaint procedure issue."

Kindly confirm that your proposed designee is someone with knowledge of each of the areas identified by Plaintiff and can address each such area. Also, please forward us that designee's name and job title. To ensure that serial depositions are not required, kindly confirm that all documents relating to complaints, including "hold notices" identified in my letter of June 19th, are produced by 5pm Tuesday, June 24, 2008. To expedite matters, kindly send us all outstanding documents relating to this area by email (if possible, otherwise by overnight delivery). Once Plaintiff's counsel has received confirmation that all discoverable documents relating to this topic area have been produced, we will confirm the deposition for Thursday, June 26, in Kansas.

Obviously, we do not believe it would be an appropriate use of resources to proceed with the tentative deposition in Kansas without the production of all documents related to complaints prior

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to the 30(b)(6) deposition on that topic area. Consequently, we appreciate your prompt attention to (and production of) documents relating to this limited area.

Finally, please advise as to when all documents requested by Plaintiff will be produced. Such outstanding areas were identified on our conference call and in my letter correspondence from last week. As you know, we have requested a conference with the Court and I would like to be in a position to advise the Court that the parties have come to agreement on all outstanding issues.

Please feel free to email me if you have any questions or concerns.

Jerry

From: Bloom, Elise M. [mailto:ebloom@proskauer.com]
Sent: Friday, June 20, 2008 5:21 PM
To: Gerald D. Wells
Cc: Gildow, Kerri A.
Subject: Eng-Hatcher

Jerry,

Following up on my earlier email, while we continue to disagree with regard as to the issues you raised pertaining to our 30(b)(6) witnesses, we are prepared to make a witness available to provide further testimony on the duties of the Retail Store Managers, Regional Sales Managers and District Managers on Tuesday at 1:30 pm at my office. We would be prepared to offer an additional witness to provide further testimony on the complaint procedure issue on either Wednesday afternoon or Thursday morning in Kansas. Per my earlier email, we are amenable to having you conduct these additional depositions by telephone, videoconferencing or live, whichever works for you. We look forward to hearing from you. Please confirm by Monday at noon whether you would like to proceed with these depositions.

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